

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): David R. Wardwell	)	
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Title: Method and system for	)	
collating data in a distributed	)	
computer network	)	
	)	
Art Unit: 2452	)	
	)	
Examiner: D. Chankong	)	
	)	
Attorney Docket No.: 96764	)	
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**REPLY BRIEF**

Pursuant to 37 C.F.R. §41.37, we hereby respectfully submit the following Reply Brief in support of the corresponding appeal and in response to the Examiner's Answer mailed January 19, 2011.

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**(1) Status of Claims**

Claims 1-12 are pending and presently stand at least twice and finally rejected and constitute the subject matter of this appeal.

**(2) Grounds of Rejection to be Reviewed on Appeal**

Whether claims 1-12 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,957,281 to Mann et al. ("Mann") in combination with U.S. Patent No. 6,907,041 to Turner et al. ("Turner").

**(3) Argument**

***U.S. Patent No. 6,957,281 to Mann et al. ("Mann") in combination with U.S. Patent No. 6,907,041 to Turner et al. ("Turner").***

**Claims 1-12**

The Examiner's explanation of the rejection of these claims substantially matches that of the appealed final rejection such that the arguments of the previously filed Appeal Brief filed November 3, 2010 fully apply. We address herein the Examiner's response to the arguments provided in the Appeal Brief.

The Examiner first addresses the scope of Mann's teachings. The Examiner paints Mann as broadly applicable to any system that processes packets. Thus, according to the Examiner, Mann can allegedly be modified to teach any such system, in this case based on teachings from Turner. This line of thought improperly sweeps away Mann's specific teachings of how its system operates.

Initially the Examiner points to Mann's Abstract as support for more broadly reading Mann's teachings. One statement regarding the area in which Mann's technology can apply cannot take away the rest of the disclosure's teaching of ordering packets by session number, which is defined as a specific node and thus cannot be modified to teach "outputting said data packets in respective logical groups that represent an aggregate packet from *at least two* of the non-synchronous compute nodes" as recited in claim 1. Because Mann is inextricably tied to its context one skilled in the art would not then be motivated to modify it as suggested by the Examiner.

The Examiner then states that the "problem to be solved by Mann is not matching up one to one sessions as argued by Appellant but the problem of when 'a host system generally processes each received packet individually, including' the situation when a host system desires to match a packet to its corresponding session." Examiner's Answer at 8-9. Mann, however, only teaches a system for addressing one to one session mapping. Even though Mann says that using session numbers is an example classification criterion, no other examples are provided. In

short, Mann's background points to one to one session mapping as the problem without discussion of other problems, and Mann's detailed description only describes using session numbers to do the classification. Given this being the extent of the teachings, one of skill in the art would not start with Mann (whose primary teachings are one to one session mapping) when looking to address the opposite - "outputting said data packets in respective logical groups that represent an aggregate packet from *at least two* of the non-synchronous compute nodes" as recited in claim 1. If one of skill in the art would not start with Mann, then Mann cannot be relied upon as the primary reference upon which an obviousness rejection can be based.

Then, even if provided with Mann, given the strong context in which Mann operates, for all the reasons described in the Appeal Brief of November 3, 2010, one of skill in art would not modify Mann as proposed to reach the subject matter of claims so diametrically opposed to the core teachings of Mann.

The Examiner's second portion of the argument section discusses whether the phrase "classification criterion" should be broadly interpreted. We are puzzled regarding this argument because the phrase "classification criterion" does not appear the independent claims at issue in this appeal. The Examiner appears to be providing an additional reason why Mann may be modified by Turner. Despite Turner's alleged disclosure of bundling packets based on a timestamp, this teaching does not overcome Mann's restriction to its disclosure such that the proposed modification of Mann is not supported as discussed above and in the Appeal Brief filed November 3, 2010.

For at least these reasons, we respectfully request reversal of the rejections of claims 1-12.

**Conclusion**

Claims 1-12 are in suitable condition to support allowance and have been shown to be allowable over the prior art of record. We therefore respectfully seek a reversal of the Examiner's rejection of these claims.

Respectfully submitted,

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Dated: March 15, 2011

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